

New Hampshire  
**State Board of Education**  
Department of Education  
Londergan Hall, Room 100F  
101 Pleasant Street  
Concord, NH 03301

Minutes of the Thursday, November 8, 2018 Meeting

**AGENDA ITEM I. CALL TO ORDER**

The regular meeting of the State Board of Education was convened at 9:55 a.m. at the State Department of Education, 101 Pleasant Street, Concord, NH. Drew Cline presided as Chairman.

Members present: Kate Cassady, Cindy Chagnon, Drew Cline, Chairman, Sally Griffin, Helen Honorow, Ann Lane and Phil Nazzaro. Frank Edelblut, Commissioner of Education was also present. Christine Brennan, Deputy Commissioner was not able to attend the meeting due to other commitments.

**AGENDA ITEM II. PLEDGE OF ALLEGIANCE**

Sally Griffin led the pledge of allegiance.

**AGENDA ITEM III. PUBLIC COMMENT**

**Patrice Benard, Founders Academy Parent**

Ms. Benard read the "Guidelines for Charter Renewal Process", RSA 194-B:16 to the State Board. Ms. Benard noted that she had sent a number of emails to the Department of Education as well as the Commissioner regarding situations at Founders Academy that violate the conditions and standards of the charter. Today, Ms. Benard will submit her written testimony to the State Board and will consider it her "written petition" for the State Board to revoke Founders Academy's charter and close the school if the violations are not resolved by the end of the school year. Ms. Benard closed by indicating that she hoped to receive a formal response to her petition to the State Board within 10 days.

Ms. Benard provided Ms. Adams a copy of her written testimony to distribute to the State Board.

**Moira Ryan, Founders Academy Parent**

Ms. Ryan supported Ms. Benard's testimony and noted that not all Founders Academy parents are allowed to participate in the charter meetings. She objected to this practice and felt parents were the heart and soul of the school and should not be barred from participation. Ms. Ryan noted that she is a

military veteran and stated that even as a member of the American Legion she is barred from certain American Legion Posts because she is a woman, which she thought was shocking.

Ms. Ryan spoke about being a parent of a special needs child and how parents of special needs children have to fight for scraps because no money is guaranteed to any particular child for special education funding and felt the system favors those who are wealthy and have resources to go to court.

She implored the State Board to act by looking into the system and making an effort to correct it. She wants more support for parents and for parents to have a bigger part in the educational process.

**Bonnie Dunham, Parent Information Center of NH**

Ms. Dunham commented that neither she nor the Parent Information Center (PIC) has an opinion in regards to Compass Academy's nonpublic school application that is scheduled later on this agenda.

**AGENDA ITEM IV. CONSENT AGENDA**

A. Minutes of October 4, 2018

MOTION: Cindy Chagnon made the motion, seconded by Ann Lane, to approve the State Board of Education meeting minutes of October 4, 2018, as amended.

VOTE: The motion was approved by unanimous vote of the State Board with Phil Nazzaro and the Chairman abstaining.

**AGENDA ITEM V. SPECIAL PRESENTATIONS**

A. Arts Education in New Hampshire

Marcia McCaffrey, NHDOE, Education Consultant, Division of Learner Support started her presentation to the State Board by noting that she has spent 19 years at the Department of Education as the arts education consultant and provided the State Board with an overview of arts education in New Hampshire. She explained why an arts education is important to the students of New Hampshire as follows:

The arts offer indirect lessons about fashioning the mundane aspects of our life. The overall goal of an arts education is to develop artistic literacy in students, which is the ability to create, respond, connect, and present works of art.

According to CHAPTER 193-E, ADEQUATE PUBLIC EDUCATION, Section 193-E:2-a, 193-E:2-a Substantive Educational Content of an Adequate Education, an adequate education includes a "grounding" in the arts, enabling students to appreciate their cultural heritage and develop lifelong interest and involvement. The arts are also included within the Minimum Standards for School Approval which describes what is required of schools for providing a minimum arts education in New Hampshire. All New Hampshire schools must offer music and visual arts, with a ½ credit in the arts required for high school graduation. The State Board approved arts competencies in 2015. In New Hampshire there are approximately 600 music teachers and approximately 600 visual arts teachers.

Visual art and music teachers produce great things in schools with a relatively low budget. A baseline of resources is required, but it is all about generating ideas and habits of mind within an arts content area. 93% of New Hampshire schools offer both visual art and music. Students in elementary schools get about 1.5 hours a week in art and music, and it goes up a little bit as levels increase.

The arts provide ways to express thoughts and ideas that go beyond words and numbers and allow for the human capacity of expression and thought. New Hampshire does a good job of providing those opportunities for students.

Ms. McCaffrey presented the following initiatives: the new Title IV Program, Part A, which included Merrimack High School receiving a grant for \$28,000 for experimental photography; New Hampshire Rocks, whose goal is to train 100 music teachers in modern band pedagogy in 2019 to expand culturally relevant music opportunities for students; the Arts Performance Assessment Project, which helps build teachers' assessment literacy and creates a conversation among teachers on provoking high levels of engagement with students; the Integrated Arts Conference with Plymouth State University; a session at the upcoming Christa McAuliffe Technology Conference called Radically STEAM in partnership with the State Council on the Arts; and the New Hampshire Arts Learning Network, which is a collaborative network of arts educators and advocates supporting quality arts learning for all students in New Hampshire by sharing information, resources and services.

March is Youth Art month and there are many activities recognizing students and the arts in New Hampshire schools.

There was discussion about schools using career and technical or Perkins funding to bolster art programs, and it was noted that this happens particularly in the areas of photography and media arts as a result of Perkins having an arts and entertainment category.

It was noted that the State Board had received a letter from Arts4NH urging them to look at updating the New Hampshire art education standards. Ms. McCaffrey commented that the art competencies from 2015 are more updated and are the current pedagogy being used in schools and agreed that the art standards from 2001 are in need of updating.

Anecdotally, over the last 10 years or so, program budgets haven't necessarily been cut but time has been shaved away, and participation by students in high schools is decreasing. Art therapy is not something that could be added to the art/music programs; as for contributing to social-emotional learning, the arts provide a wonderful way to address it.

#### B. Heartwood Public Charter School Charter Application

Stacey Whipple introduced herself and introduced Heartwood's newest board member, Bridget Freudenberger. Ms. Freudenberger provided her professional background to the State Board and then presented Heartwood's new budget. She noted that this new budget will prepare Heartwood for operational sustainability. Challenges will include understanding enrollment opportunities, engaging families from varied locations, and providing opportunities for alternative schooling options. A critical component will be building the education staff, student enrollment, payroll expenses, careful spending, and a plan for building reserves. A change from the previous presentation is that the school is looking at rental opportunities as opposed to building a facility. An investor who is interested in the revitalization of downtown Lancaster, NH and who believes in the idea of holistic place-based education, has been working closely with Heartwood's board to examine the overall town structure and identify buildings that might be available to the house the school. It was also noted that the community is very committed to their children and embraces the importance of choice.

Questions were raised regarding salaries and benefits for the school director and educational staff, the \$20,000 fundraising line item, grant opportunities in the North Country, the budget numbers for utilities, outreach to the community (particularly with regard to enrollment), board insurance, and the provision for pupil transportation. There was some discussion and concern, also, about staff qualifications, in particular for the curriculum person. Ms. Whipple indicated that her presentation would address some of these questions and proceeded with her presentation.

The presentation included what Heartwood looks like, feels like, and sounds like on a daily basis; choices in learning, which means pre-planned and well-articulated centers coupled with integrated curriculum and cross-curricular collaboration when at all possible; field work; assessment of what students know and are able to do; short and long-term goals for students with individualized

learning plans and portfolios that document unit progress, skills progress, and overall yearly progress.

The presentation also included updates on pupil transportation, admission procedures regarding New Hampshire versus Vermont applicants, adding a board member with a financial background (i.e., Bridget Freudenberger), updating the budget and updating the learning coordinator position description with a focus on special education. It was noted that racial diversity in the North Country is a barrier and outside the school's control; however, tolerance and racial diversity has been included as one of the schools curricular approaches. The application has been amended to include exposure to foreign language and culture, but not proficiency. Heartwood also acknowledges that technology has a very important place in learning, and right now educators coming into the teaching realm have to have a basic foundational knowledge in technology education. Heartwood's curriculum will have technology embedded in its curriculum and will be a part of daily instruction and assessment.

Questions were asked about Heartwood daily schedule. "Snack relates to curriculum" and "Focus on Fridays" was explained. Food can be used in many ways to communicate a number of different things, and field work happens every day. Focus on Fridays is an opportunity for students to explore a six-week module in an area of interest and focus that might be outside of the norm. "Blending the standards" refers to cross-curricular work and not changing the standards.

Ms. Whipple was asked if she could identify or see where a child applying for admission might not fit the Heartwood model. Ms. Whipple responded that the school will have transparent and open dialog about what a particular program can offer to a particular student. It is a choice, and not every school is the right fit for a given student and she noted that communication and collaboration are key.

MOTION: Cindy Chagnon made the following motion, seconded by Phil Nazzaro, that the State Board of Education authorizes the Heartwood Public Charter School application to move forward.

VOTE: The motion was approved by unanimous vote of the State Board with the Chairman abstaining.

## **AGENDA ITEM VI. REPORTS, NEW BUSINESS and/or DEPARTMENT UPDATE**

### **A. MicroSociety Academy Charter School (MACS) Status Change –**

Amy Bottomley, School Director introduced herself as well as Trustee, Jamison Hoff and Chair, Thomas Malone. Ms. Bottomley noted that MicroSociety

Academy Charter School (MACS) has been very successful and operating at full capacity for quite some time and is before the State Board today looking for permission to double in size over the next few years. Ms. Bottomley noted that they average 125 student applications each year. MACS New Hampshire state assessment scores have been trending as the highest for elementary charter schools in the state. Their model is real world application, and 21st century skills are being taught. Every day students are running their own society. The current building is at full capacity, but there is a building next door with over 16,000 square feet that would allow for the formation of both a lower (K-4) and upper school (5-8) and that they are in preliminary lease discussions.

A question was raised as to why the request in status change wasn't being incorporated into MACS' upcoming charter renewal where a lot more information would be provided to the State Board. It was explained that waiting for the renewal process would pose a problem as they need this time frame to allow for building for the increase the fall of 2020 and that MACS is confident in being able to accommodate the increase in enrollment. It was noted that their waitlist is averaging 125 students a year.

Commissioner Edelblut mentioned that he has visited the school twice and most recently with Jane Waterhouse, NHDOE Charter School Administrator to tour the facility and look at the school's programs and he noted that there have been no issues with this school and that the school embraces the philosophy of this board in that it works very closely with the local school district.

Ms. Bottomley also pointed out that MACS is very fiscally sound and are on target to see \$1.7 million in revenue this year

There was quite a bit of discussion about community outreach and getting the word out to diverse populations about the expansion. Several board members noted that they liked what they were hearing and one encouraged the other board members to visit the school's website which is set up nicely and contains a lot of useful information. Dr. Hoff encouraged the State Board to look at the micro moments stories on the website that highlight, in a fun way, the day-to-day happenings of MACS' students and demonstrate the success of the micro-society concept.

**MOTION:** Cindy Chagnon made the motion, seconded by Kate Cassady, that pursuant to RSA 194-B:3, XI, that the State Board of Education authorizes MicroSociety Academy Charter School to change the charter enrollment growth plan starting in the 2020-2021 academic year and continuing for a 5 year period.

**VOTE:** The motion was approved by unanimous vote of the Board with the Chairman abstaining.

B. Nonpublic School Approval for Compass Academy –

Nash Reddy introduced herself and Dan Dube, CEO of Compass Innovative Behavior Strategies to the State Board. Ms. Reddy offered to answer any questions regarding the materials given to the State Board as part of their nonpublic school application. Mr. Dube explained that Compass was started as a way to provide medically necessary behavioral therapy services for children on the autism spectrum and to support families in underserved communities. Over the last four years, Compass has grown to a staff of over 70 at 3 locations. Compass hopes to become approved as a nonpublic school so that instead of providing only insurance-based care, they will be able to offer a local alternative to New Hampshire families who currently send their children to Massachusetts special needs schools. It will save school districts an enormous amount of money in transportation, and it is better for the children. Compass Academy is unique in that it won't be providing services directly under the Individuals with Disabilities Education Act (IDEA) umbrella directly but as a best practice. The programming is a research-based curriculum, the Autism Encyclopedia Curriculum. The science behind the programming and methodology is Applied Behavior Analysis (ABA).

The application before the State Board is for nonpublic school approval that does not include special education approval. Without the special education approval, students with Individual Education Plans (IEPs) seeking admission into the school would require a superintendent to sign off on an individual program approval (IPA). Compass is an established company with insurance and other things already in place relative to running a business.

There will be a private plan between the parent and Compass Academy that incorporates the IEP and in addition will include a Functional Behavior Assessment by a board-certified behavior analyst. A document has been drafted by Compass to help explain to school districts the number of different ways that a student may choose to attend.

Compass Academy is for children who may be behind or developmentally delayed or require a discreet level of instruction that is very direct for each of their behaviors. ABA works with a variety of students, not just autism students. Precision teaching is another side of ABA, which is teaching one subject area in 40 hours. The Compass Academy in Concord has met all of the requirements for nonpublic school approval.

MOTION: Cindy Chagnon made the motion, seconded by Phil Nazzaro, that the State Board accept and approve the Commissioner's nonpublic school approval designation report.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

C. School Restraint and Seclusion Report for School Year 2017-2018 per RSA 126U

Attorney Diana Fenton from the NHDOE Governance Unit stated her name for the record and introduced Rich Farrell, NHDOE Investigator to the State Board. Attorney Fenton explained that the report is mandated by RSA 126U and that data is gathered through the annual school survey report. The numbers are reviewed for any anomalies, and schools are contacted for clarification. A quick comparison was provided to the State Board so they could have a feel for the numbers. Restraint is defined as "bodily physical restriction, mechanical devices, or any device that immobilizes a person or restricts freedom of movement of the head, torso, arms, or legs." One school had one student with 40 incidences, and it was pointed out that restraint could be taking a child's shoulders to walk them to a particular area. The trend has increased; however, it was explained that each school district uses RSA 126U as a baseline and the school district decides on the reporting. It was explained that there was likely a trend of over reporting based on a misunderstanding of definitions.

In response to a query from Chairman Cline, Attorney Fenton said the law governing the restraint and seclusion reports has never been interpreted to mean that the State must review each individual incident.

MOTION: Cindy Chagnon made the motion, seconded by Kate Cassady, to accept the School Restraint and Seclusion Report for School year 2017-2018 per RSA 126U.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

D. Introduction of Ashlee Stetser, NHDOE Administrator, Bureau of Educator Preparation & Higher Education and Teacher Preparation Program Approval Schedule (per a request of the State Board at their October meeting)

Please see Agenda Item E.

E. Council of Teacher Education (CTE) Recommendations/Updates

Michael Seidel, NHDOE, Director, Division Educator Support & Higher Education introduced himself and made the State Board aware that Nicholas Marks, Dean of the School of Education, Granite State College (GSC), Laura Wasielewski, Director, Teacher Education Programs, St. Anslem, Tom Schram, Associate Professor of Education, University of New Hampshire (UNH) were



present should the State Board have questions regarding the program approval extension requests for their professional educator preparation programs.

Chairman Cline clarified that the decision to have the extension requests on the agenda was a result of the CTE unanimously approving them at its last meeting. The next step in the process is to have them go before the State Board of Education for consideration.

Commissioner Edelblut introduced Ashlee Stetser the new Administrator for the Bureau of Educator and Higher Education replacing Nicole Heimarck to the State Board.

Mr. Seidel provided the State Board with a teacher preparation program approval schedule spreadsheet containing information on extension requests, program reviews, progress reports, and new program reviews. Mr. Seidel then used the spreadsheet to review the program approval extension requests to the State Board.

Ann Lane asked if any of the programs are reviewed by external organizations. Mr. Marks noted that GSC's programs are currently approved by the Council for the Accreditation of Educator Preparation (CAEP) and will be reviewed again in 2023. Mr. Schram noted that UNH is also approved by CAEP and is scheduled to be reviewed again in 2021. Dr. Wasielewski noted that St. Anslem currently does not have national accreditation; however, is pursuing initial CAEP accreditation in 2023. Commissioner Edelblut also noted that each of the institutions is accredited by the New England Commission of Higher Education (NECHE).

Dr. Wasielewski responded to questions raised about the backlog as a member of the CTE and explained that the delay is due to a capacity issue not just with the Department of Education (DOE) but also with the CTE. The CTE's capacity is 3 to 4 renewal visits a year with a few new program visits added to the year.

Helen Honorow asked Dr. Wasielewski how the CTE can assure the State Board and students that there are no problems or concerns with any of the programs should the extension requests be approved and moved forward. Dr. Wasielewski responded that it is really a capacity issue. She explained that she will be a co-chair for the UNH visit. UNH has a minimum of 30 programs that reviewers will need to be secured and trained for and she would feel better as a co-chair and conduct a more thorough review and the institution will have more confidence in the reviewers' preparation and training if given more time. Helen agreed that this makes good sense for when the State Board receives the review, what she is asking that in the meantime how students entering into the programs and the State Board are assured that "things are looking good" and asked if there was something the State Board could receive in addition to the

institutions' annual reports that assures the State Board that the programs are turning out qualified and prepared teachers.

Commissioner Edleblut made the suggestion to have the institutions provide the State Board with a letter of assurance stating that while the review of their professional education preparation programs by the DOE and CTE are being extended that the programs fully meet all the requirements and regulations of the Department of Education. Ms. Honorow liked that idea and asked if the institutions could provide such an assurance. Dr. Wasielewski responded positively as the three felt very confident in their programs and asked that they be provided with the language the State Board would like to have in the letters. Mr. Marks offered to share GSC recent CAEP review report with the State Board in addition to the letter of assurance.

Chairman Cline's asked if Dr. Wasielewski could explain again to the State Board why St. Anslem is asking for an extension. She stated that the request was two-fold. The first, from a CTE prospective, she explained that once you start pushing program visits to another year, you need to push all of the others and adjust the schedule to meet CTE's capacity. The second is due to significant personnel changes at St. Anslem and read the rule language upon which the request was based ~ "when an institute of higher education (IHE) experiences significant changes in the oversight and coordination of the teacher education programs at the IHE or in personnel involved in the programs...". Dr. Wasielewski explained that this year St. Anslem has a new Department Chair, new Coordinator of Clinical Practice, a new Data Manager, and that the roles of the Director of Teacher Education and Chair have been split.

1. Update regarding Plymouth State University's professional educator preparation programs.

Mr. Seidel explained that three of the four critical folks involved in the discussion were unable to attend the October Council of Teacher Education (CTE) meeting, so this agenda item was moved to November's meeting. An update will be provided to the State Board at the December meeting.

2. Request from St. Anslem for a one-year extension of program approval for all its professional educator preparation programs.

**MOTION:** Ann Lane made the motion, seconded by Cindy Chagnon, that the State Board of Education approves St. Anslem's request for a one-year extension of program approval for all its professional educator preparation programs and submit to the State Board a letter of assurance for these programs.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

3. Request from University of New Hampshire for a substantive change: specific learning disabilities program discontinuation.

MOTION: Cindy Chagnon made the motion, seconded by Kate Cassady, that the State Board of Education approve the request from the University of New Hampshire for a substantive change that their specific learning disabilities program be discontinued.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

4. Request from CTE and the Department for a one-year extension of program approval for the University of New Hampshire's and Granite State College's professional educator preparation programs.

MOTION: Cindy Chagnon made the motion, seconded by Ann Lane that the State Board of Education approve the request from CTE and the Department for a one-year extension of program approval for the University of New Hampshire's and Granite State College's professional educator preparation programs and submit to the State Board a letter of assurance for these programs.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

## **AGENDA ITEM VII. LEGISLATIVE UPDATES**

### **A. Initial Proposal – Code of Conduct Requirement, Ed 505.08 and Ed 610.01**

Amanda Phelps, NHDOE, Administrative Rules Coordinator explained that this rule will require all credential applicants to check off that they understand and will adhere to a Code of Conduct, and that every educator preparation program will require a graduate to demonstrate evidence of an understanding of ethical decision making as it relates to the Code of Conduct.

MOTION: Cindy Chagnon made the motion, seconded by Sally Griffin that the State Board of Education approve Ed. 505.08 and Ed 610.01 relative to the Code of Conduct requirements for licensure and hold a public hearing for these rules on January 10, 2019.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

B. Initial Proposal – Adopt--Digital Learning Specialist, Ed 507.22 and Ed 612.19

The State Board had no questions for Ms. Phelps.

MOTION: Ann Lane made the motion, seconded by Sally Griffin that the State Board of Education approves Ed 507.22 and Ed 612.19, Digital Learning Specialist.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

C. Adopt ~ Code of Ethics & Code of Professional Conduct for Educators (Ed 501.01, Ed 501.02, Ed 502.01, Ed 504.04, Ed 504.05, Ed 510, Ed511, and Ed512)

Ms. Phelps explained that there was a minor editorial change on Page 8 and it is now ready for adoption. Chairman Cline thanked everyone who worked on this rule and making sure the language was correct.

MOTION: Cindy Chagnon made the motion, seconded by Phil Nazzaro that the State Board of Education adopt Ed 501.01 and Ed 501.02, Purpose and Definitions, Ed 502.01, Confidentiality of Educator Certification Records, Ed 504.04 Emergency Authorization, Ed 504.05 In Process of Licensure Authorization, Ed 510 Principles of Professional Conduct, Ed 511, Investigations and Disciplinary Proceedings and Ed 512, Denial of Certification.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

Commissioner Edelblut explained that a letter has been drafted and will be sent out to superintendents, school principals, teachers, school boards and pointed out that WMUR was attending today's meeting and that a press release will be going out today to other press outlets. The commissioner further expressed that having this rule in place demonstrates that we are doing our best to elevate the profession of educators. We are providing protections for our students, educators and communities as well as providing protections to educators by clarifying the process for which they would go through should something happen. This is a great move forward.

Ms. Chagnon noted that this is a prime example of a collaborative effort with the legislature as well as with all the stakeholders coming together to draft a well thought out and workable document. Good job.

D. Discuss Home Education rules

Richard Sala, NHDOE Attorney explained that while undertaking a rewrite of the technical advisory regarding the home education rules to clarify some areas where more was being asked of home educators than the statute requires, he reached out to the Chair of the Home Education Advisory Council (HEAC) to see if the Council could take a look at the statute and the rules to see if there is something about them that is creating a disconnect. The Chair agreed and the HEAC will begin taking a look this month. Attorney Sala clarified that this was before the State Board as a read-ahead and to make sure it was on their radar.

It was clarified by Attorney Sala that the HEAC is looking at the rules to see if there is a reason for any disconnect and is not being asked to rewrite the rules.

Chairman Cline noted that this is a “heads up” to the State Board and noted that depending on the outcome of the HEAC’s review could potentially be the start of a rule making process where the Department and the HEAC work collaboratively to make changes to the existing rule.

Chairman Cline thanked Attorney Sala and Ms. Phelps for bringing this to the attention of the State Board at the start of the process and having this advance a notice is very helpful.

Helen Honorow asked if Attorney Sala could provide the State Board with the anecdotal information he mentioned. Attorney Sala explained that the forms the Department was receiving had more information on them than what is required by the statute. He noted that the statute is very clear what is required and the rule was ambiguous or an artful language that allow people to maneuver within the language of the rule. We want to make sure that the language in the rule is as clear as that in the statute.

E. Discuss Educational Interpreter/Transliterators for Children and Youth Ages 3-21 (Ed 507.35 and Ed 612.36)

Ms. Phelps explained that deadline for final approval of the rule was on November 5; therefore, the deadline was missed. As a result a waiver was requested for the final deadline to be extended to allow the State Board time to make a final vote. The Director of the Office of Legislative Services (OLS) and the Chair and Vice-Chair of the Joint Legislative Committee on Administrative Rules (JLCAR) denied the waiver request determining that there was no urgency as the rule was not expiring and expressed concern about the proposed

increased requirements for certification. Ms. Phelps noted that this delay is an opportunity to engage more stakeholders, gather more data as well as have more Professional Standards Board (PSB) engagement,

Chairman Cline explained that he and Ms. Phelps worked on the waiver and he was surprised that it was denied.

Ms. Phelps explained that rulemaking process usually opens when a rule is expiring. In the case of this rule, the process was opened in an alternative way with someone from outside the Department requesting that the Bureau of Special Education open the rule.

Chairman Cline expressed his frustration with this rule not coming through to the State Board via normal channels and as a result it did not receive the broad input that it would have received otherwise.

Helen Honorow expressed concern that a waiver extension request was sent to JLCAR without the State Board's asking for it. The State Board did not ask for a waiver extension and was embarrassed by JLCAR's response letter. She expressed her extreme frustration with how this rule was handled by not following the usual rulemaking process. Ms. Honorow said if felt like we were looking for a particular response and were not going to be able to vote on it until we got the response some people were looking for and state that this isn't the way the State Board should operate. There is a rulemaking process and the statute provides for who can present a rule to us and nobody bypassed the State Board or the PSB and there are other methods prescribed in the statute for how rules can go forward. The JLCAR response on this was because we did not handle this correctly.

Chairman Cline disagreed with Helen's interpretation of JLCAR's response letter. He expressed his concern that the rulemaking process requires the State Board to vote on initial proposals that they have no prior knowledge of or information about and that the next step in the process is public comment, which often goes unnoticed by the field. The State Board is often rushed through the process and explained that the 150-day process is often not enough time for the State Board to have the information needed to make a decision on a rule. Chairman Cline explained that he did reach out to the field for input on this particular rule; however, he did not filter any of the responses his outreach generated to the State Board.

Cindy Chagnon asked for clarification on next steps and Chairman Cline explained that this rule expires in 2022 and the State Board has the option of opening the rulemaking process again or waiting. Ms. Chagnon noted that waiting makes the most sense especially if we are looking for more input from the field. Ann Lane agreed with waiting and thinks that a prevailing concept in rulemaking should be that rules do no harm and this rule doesn't limit a school

district from hiring someone with an advanced degree, but for those school districts it could potentially hurt, it does do harm and is grateful this rule has taken this track.

Helen Honorow asked that moving forward the State Board follow the processes that exist for all rules. Chairman Cline agreed.

There was discussion about how to improve getting rulemaking information to the State Board and communication out to the stakeholders. The current posting process is passive.

### **AGENDA ITEM VIII. OPEN BOARD DISCUSSIONS**

There was no open board discussion.

### **AGENDA ITEM IX. OLD BUSINESS**

There was no old business at this meeting.

### **AGENDA ITEM X. TABLED ITEMS**

#### **A. Heartwood Public Charter School Charter Application**

MOTION: Cindy Chagnon made the motion, seconded by Phil Nazzaro, to remove Heartwood Public Charter School charter application from the table.

VOTE: The motion was approved by unanimous vote of the State Board with the Chairman abstaining.

### **AGENDA ITEM XI. NONPUBLIC SESSION**

MOTION: Cindy Chagnon made the motion, seconded by Phil Nazzaro to move into nonpublic session in accordance with RSA 91-A:3, II(c).

VOTE: The motion was approved by roll call vote at 2:15 PM by State Board of Education members, Sally Griffin, Kate Cassady, Cindy Chagnon, Phil Nazzaro and Helen Honorow with Ann Lane and Drew Cline recusing themselves from the nonpublic session.

MOTION: Phil Nazzaro made the motion, seconded by Helen Honorow to return to public session.

VOTE: The motion was approved by roll call vote at 3:45 PM by State Board of Education members, Sally Griffin, Kate Cassady, Cindy Chagnon, Phil Nazzaro and Helen Honorow.

MOTION: Cindy Chagnon made the following motion, seconded by Phil Nazzaro that the State Board of Education seal the minutes of the non-public session.

VOTE: The motion was approved by roll call vote by State Board of Education members, Sally Griffin, Kate Cassady, Cindy Chagnon, Phil Nazzaro and Helen Honorow.

**AGENDA ITEM XII. ADJOURNMENT**

MOTION: Cindy Chagnon made the motion, seconded by Ann Lane, to adjourn the meeting at 3:45 p.m.

VOTE: The motion was approved by unanimous vote of the State Board with the Chairman abstaining.



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Secretary